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OFFICE OF PETITIONS

In re Application of :  
Sierra et al. :  
Application No. 09/544,507 :  
Filed: April 6, 2000 :  
Attorney Docket No. MS1-486US :

ON PETITION

This is a decision on the petition under 37 CFR 1.137(a), filed July 12, 2005, to revive the above-identified application. The petition is also being treated under 37 CFR 1.181 (no fee) as a petition to withdraw the holding of abandonment.

The petition is **granted**.

The above-identified application was deemed abandoned for failure to reply within the meaning of 37 CFR 1.113 in a timely manner to the Office action mailed November 3, 2004, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application was deemed abandoned as of midnight on February 3, 2005.

Petitioner contends and has established non-receipt of the final Office action.

The Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.

Since the petition has been granted under 37 CFR 1.181, the petitioner's request to have the petition considered under 37 CFR 1.137(a) is dismissed as moot. No petition fee is required for a petition to withdraw holding of abandonment under 37 CFR 1.181. Therefore, the petition fee of \$500 will be credited to petitioner's deposit account.

The examiner will be informed the holding of abandonment has been withdrawn. The Office notes a Notice of Appeal was filed on January 21, 2006. **The two month period of time to file an appeal brief will begin on the mailing date of the instant decision.**

Telephone inquiries should be directed to Petitions Attorney Steven Brantley at (703) 306-5683.

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Office of Petitions